Bankruptcy 'reform' bill still around, and it's still a bad bill
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Editorial

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One of the predictions regarding the new GOP-controlled U.S. Senate is that chances for passage of a long-stalled bankruptcy reform bill are better. We hope that prediction is wrong. The bill is being pushed hard by the banking and credit card industry, the folks who have mounted saturation campaigns to get everybody to sign up for credit cards, regardless of credit history. According to the Consumer Federation of America,"In the 12-month period ending March 31, 2002, (credit card) issuers have mailed five billion solicitations - nearly 50 per U.S. household. And they now make available more than $3 trillion of unused lines of credit - about $30,000 per household."

Not surprisingly, a lot of poor credit risks have succumbed to temptation and wound up defaulting on their debts. Others - a far larger group - have gotten into trouble because of illness or losing a job. Some of these people have had their debts discharged in bankruptcy court. The bankers' solution is to change the bankruptcy laws, and their compliant servants in Congress are ready to go along.

"Credit card issuers are shamelessly escalating their marketing and available credit to stratospheric levels while demanding that Congress give them relief by making it harder for consumers to declare bankruptcy," said Travis Plunkett, the Consumer Federation's legislative director.

It's not that people are going hog-wild on credit. "During the first three months of 2002, according to Federal Reserve Board data, revolving consumer debt (almost entirely credit card debt) declined by $29 billion," the federation notes.

Neither is it true that credit card outfits are hurting. As the federation points out, "Bankcard profits increased in 2001 to their second highest level in the last five years, according to the Federal Reserve. Profits are now more than 50 percent higher than in 1997.

"Growing profits were largely driven by the increasing 'interest rate gap' between the benchmark rate set by the Federal Reserve, which continued to drop in 2001, and interest rates charged by major card issuers to consumers. The Federal Reserve last year cut interest rates by 4.75 percent, but creditors cut their rates by only 1.35 points on average."

Existing law puts the burden on the creditor to show that the debts should not be dismissed due to "substantial abuse" by the debtor. The bill shifts the burden of proof to the debtor. The bill also restricts what debts can be discharged. Critics say many provisions are unworkable and could be applied arbitrarily.

"Research shows that nine in 10 bankruptcies are triggered by a loss of job, high medical bills or divorce," U.S. Rep. Jan Schakowsky, D-Ill., said on the House floor. "Yet this legislation would not allow a bankruptcy judge to take this into account ... unless the debtor is a victim of terrorism."

The Consumer Federation points out some of the new barriers debtors would face. "For example, the conference report presumes that a struggling family that spends more than $42 a

week on credit card purchases before declaring bankruptcy is guilty of fraud. The 'means test' ... would label a family's spending on mass transit to be excessive if they owned a car."
Interestingly, the bill could already be law already had it not been caught up in abortion politics. A provision added by U.S. Sen. Charles E. Schumer, D-N.Y., during the House-Senate conference in July would limit the ability of protesters to escape court fines by filing bankruptcy.

The House passed a stripped-down version of the bill Friday that the Senate is unlikely to consider.
The bankruptcy legislation may be dead for now, but it is certain to return. Beleaguered consumers are not out of the woods yet on this issue.